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10 UNITED STATES DISTRICT COURT

11 DISTRICT OF NEVADA

12 DEREK MYERS, on behalf of himself and
all others similarly situated,

13 Plaintiff,

14 vs.

15 CITY OF LAS VEGAS, a political
16 subdivision of the state of Nevada; JASON
BROOKS, individually; SERGIO GUZMAN,
17 individually; and JASON POTTS,
individually,

18 Defendants.
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CASE NO. 2:25-cv-0562-GMN-DJA

20 **DEFENDANTS' REPLY IN SUPPORT OF MOTION TO STRIKE**

21 Defendants CITY OF LAS VEGAS, JASON BROOKS, SERGIO GUZMAN, and JASON
22 POTTS, through their attorneys of record, JEFFRY M. DOROCAK, City Attorney, by NECHOLE
23 GARCIA, Chief Deputy City Attorney, and PAUL MATA, Deputy City Attorney, file this Reply in
24 Support of Defendants' Motion to Strike. Plaintiff's Opposition failed to justify his failure to
25 comply with LR 7-2 and 7-3, so this Court should strike his Opposition to Defendants' Motion to
26 Dismiss.

27 This motion is based upon the pleadings and papers on file herein, the following points and
28 authorities, and any oral argument that the Court may entertain.

MEMORANDUM OF POINTS AND AUTHORITIES

I. INTRODUCTION

Plaintiff Derek Myers (“Myers”) admits that he failed to consult the rules prior to filing his Opposition to the City’s Motion to Strike. He also presents no compelling reason for his failure to abide by the rules. Now, he belatedly seeks the court’s permission to allow his overlong brief to stand. However, rather than demonstrate the requisite good cause, Myers makes the blanket assertion that he had to exceed the page limits to properly oppose Defendants’ motion. Yet, he never identifies any specific arguments raised in Defendants’ motion that required exceeding the page limits. The fact remains that Myers disregarded the rules by exceeding the page limits without first seeking leave. More importantly, Myers’ overly long brief gave him an unfair advantage, as he was able to raise arguments that Defendants could not rebut due to the page limits for their reply. Allowing Myers’ excessively long brief to stand would not only prejudice Defendants, it would also reward Myers’ for disregarding the local rules. Therefore, this Court should deny Myers’ request and grant Defendants’ Motion to Strike.

II. ARGUMENT

Myers fails to provide a compelling reason why he did not comply with the page limits. Instead, he blames it on a “misunderstanding” that really amounts to a failure to read the rules. However, this failure should not simply be brushed aside, particularly since he is represented by competent counsel. Additionally, Myers failed to demonstrate the good cause required for his brief to stand. He blames Defendants for raising several issues in their Motion, but his attempt to shift blame to Defendants is belied by the simple truth: if Defendants were able to concisely raise those issues within the page limits, then Myers should have been able to concisely respond to those arguments within the page limits. His failure to do so undermines the purpose behind LR 7-3. Thus, Defendants’ Motion to Strike should be granted.

A. Myers failed to provide a compelling reason for violating the rules.

Myers admits that he failed to consult the Local Rules prior to filing his Opposition to the Defendants’ Motion to Dismiss. He blames his failure on the mistaken belief that the thirty-page limit applied to all dispositive motions. ECF No. 20 at 2:3-5. However, a quick consultation of the

1 Local Rules prior to filing his Opposition would have disabused Myers of this notion. There, the
2 rules make clear that motions for summary judgment have the thirty-page limit, and “[a]ll other
3 motions are limited to twenty-four pages.” LR 7-3(a), (b). Moreover, the rule has specific and
4 strict requirements for seeking leave prior to filing an overly long brief. LR 7-3(c). Unlike some
5 rules that allow for an exception for “excusable neglect,” Local 7-3 provides no such exception,
6 much less one for failure to read the rule. *See, e.g.*, LR 26-3 (allowing court to grant extensions
7 after deadline after a showing of excusable neglect). Myers’ ignorance of the local rules does not
8 justify violating them, particularly when Myers is represented by competent counsel. *See Dela*
9 *Rosa v. Scottsdale Mem. Health Sys., Inc.* 136 F.3d 1241, 1244 (9th Cir. 1998) (“we expect an
10 attorney practicing law in federal court to become familiar with and follow rules applicable to
11 practice in this court.”); *Pincay v. Andrews*, 389 F.3d 853, 859 (9th Cir. 2004) (“[w]e recognize
12 that a lawyer’s failure to read an applicable rule is one of the least compelling excuses that can be
13 offered.”)

14 **B. Myers failed to demonstrate good cause.**

15 Myers argues that the style and volume of Defendants’ arguments constitute good cause to
16 exceed the page limits. However, Myers does not point to any specific arguments raised by
17 Defendants that required a lengthy response, nor does he explain why those specific arguments
18 require an overlong rebuttal. His vague references to Defendants’ motion lack the specificity
19 needed to establish good cause. *Echeverria v. Nevada*, 2022 WL 1046289, at *2 (D. Nev. April 7,
20 2022) (finding lack of good cause where defendant failed to explain why brief must be so long);
21 *Rimini Street, Inc. v. Oracle International Corp.*, 2019 WL 2358389, at *4 (D. Nev. June 4, 2019)
22 (good cause must be demonstrated “with specificity”).

23 Myers also contends that he exceeded the page limits because the Defendants’ motion
24 improperly raised summary judgment arguments. As a threshold matter, Myers never raised that
25 argument in his Opposition to Defendants’ Motion to Dismiss, so it is curious that he uses that as
26 an excuse now to justify his own rule violation. Nonetheless, Myers is incorrect. Defendants’
27 motion properly cited to the standard for Rule 12(b)(6) motions to dismiss and used that standard
28 to argue that Myers’ Amended Complaint failed to state any plausible claims for relief.

1 Defendants' motion had no exhibits, nor did it cite to the sort of evidence outside the pleadings
2 that would have converted it to a motion for summary judgment. *See* FED. R. CIV. P. 12(d).
3 Ultimately, if Myers truly believed that he needed additional pages to respond because Defendants
4 improperly raised summary judgment arguments, he should have filed a motion for leave
5 beforehand.

6 Finally, if Defendants were able to concisely raise their arguments within the page limits,
7 then Myers should have been able to respond to them within the page limits as well. That would
8 have ensured the fairness between the parties the rule was designed to create. Contrary to Myers'
9 assertions, Defendants provided concise arguments not because of a "shotgun" approach to motion
10 practice, but because Defendants' arguments had to fit within the page limits. Likewise,
11 Defendants had to be selective as to what they addressed in their Reply, because it was not possible
12 to address every counterargument Myers made in his Opposition in just twelve pages. *See* ECF
13 No. 19. Myers' overlong brief gave him an advantage and prejudiced Defendants. Granting Myers
14 belated request now, especially after he failed to file a motion for leave, would undermine the
15 purpose behind LR 7-3.

16 Myers failed to demonstrate good cause to exceed the page limits in his Opposition to
17 Defendants' Motion to Dismiss. Accordingly, this Court should grant Defendants' Motion to
18 Strike.

19 **III. CONCLUSION**

20 Myers' arguments justifying his failure to comply with the rules and attempting to
21 demonstrate good cause are meritless. His admission that he simply did not consult the rules before
22 filing his Opposition is an inadequate justification. Moreover, Myers did not establish good cause
23 because he failed to specify what arguments in Defendants' Motion to Dismiss necessitated

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1 exceeding the page limits, and why. Accordingly, Defendants respectfully request that this Court
2 grant its Motion to Strike.

3 DATED this 2nd day of July, 2025.

4 JEFFRY M. DOROCAK
5 City Attorney

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